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4 UNITED STATES DISTRICT COURT  
5 WESTERN DISTRICT OF WASHINGTON  
6 AT TACOMA

7 LINDA GILMER,

8 Plaintiff,

9 v.

10 CENTENE CORPORATION, et al.,

11 Defendants.

CASE NO. C16-5685BHS

ORDER GRANTING  
PLAINTIFF'S MOTION TO  
DISMISS WITHOUT PREJUDICE

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13 This matter comes before the Court on Plaintiff Linda Gilmer's ("Gilmer") motion  
14 to dismiss without prejudice (Dkt. 39).

15 On May 6, 2016, Gilmer filed a complaint in the United States District Court for  
16 the Western District of Missouri against Defendants Centene Corporation, Centene  
17 Management Company, LLC, and Coordinated Care Corporation ("Defendants")  
18 asserting a claim for wrongful discharge in violation of the Sarbanes-Oxley Act of 2002,  
19 18 U.S.C. 1541. Dkt. 1. On August 5, 2016, the Missouri Court transferred the matter to  
20 this Court. Dkt. 20.  
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1 On February 17, 2017, Gilmer filed the instant motion requesting dismissal  
2 without prejudice. Dkt. 39. On March 13, 2017, Defendants filed a response objecting to  
3 the dismissal. Dkt. 40. On March 15, 2017, Gilmer replied. Dkt. 41.

4 Once answers have been filed, an action may be dismissed at the plaintiff's request  
5 over defendants' objections "only by court order, on terms that the court considers  
6 proper." Fed. R. Civ. P. 41(a)(2). "A district court should grant a motion for voluntary  
7 dismissal under Rule 41(a)(2) unless a defendant can show that it will suffer some plain  
8 legal prejudice as a result" *Smith v. Lenches*, 263 F.3d 972, 975 (9th Cir. 2001) (footnote  
9 omitted) (citing *Waller v. Fin. Corp. of Am.*, 828 F.2d 579, 583 (9th Cir. 1987)).

10 In this case, Defendants have failed to show either plain legal prejudice or  
11 sufficient grounds to award fees. First, Defendants argue that they will suffer legal  
12 prejudice because they will have lost defenses to the federal claim if Gilmer files a  
13 complaint in state court based on alleged violations of state law. It is not legal prejudice  
14 to "lose" defenses to claims that won't be reasserted. Defendants' argument is without  
15 merit.

16 Second, Defendants contend that the Court should dismiss Gilmer's federal claim  
17 with prejudice and award fees and costs incurred based on Defendants' time and effort  
18 incurred in this matter. Dkt. 40 at 4–5. Defendants cite no authority for dismissing the  
19 claim with prejudice based on having to expend some effort in defending against the  
20 claim. Moreover, Defendants have failed to show any fee or cost that can not be used in  
21 future litigation. Therefore, the Court **GRANTS** Gilmer's motion and dismisses her  
22 complaint without prejudice.

